

THIRD DIVISION

[G.R. No. 174016, July 28, 2008]

SEVERINO C. BALTAZAR, REPRESENTED BY HIS ATTORNEY-IN-FACT ARLENE C. BALTAZAR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND ARMANDO C. BAUTISTA, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45^[1] of the Revised Rules of Court assailing the (1) Decision^[2] dated 26 April 2006 of the Court of Appeals in CA-G.R. SP No. 88237 denying the Petition for *Certiorari* under Rule 65 filed by herein petitioner Severino C. Baltazar;^[3] and the (2) Resolution dated 1 August 2006 of the appellate court in the same case denying petitioner's Motion for Reconsideration.

In its decision, the Court of Appeals affirmed the Order of Judge Crisanto C. Concepcion of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 12, dated 30 July 2004,^[4] granting the Motion to Withdraw Information for Murder in Criminal Case No. 3042-M-2002 against private respondent Armando Bautista.

The antecedent facts of the present case are as follows:

At about 8:30 p.m. of 21 April 2002, in the province of Bulacan, a silver/gray colored car with Plate No. TNM-606, traveling from the direction of Calumpit and going towards the direction of Pulilan Public Market, suddenly hit a *pedicab*.^[5] Because of the impact, the passengers of the *pedicab* - Erlinda Baltazar and her son, Rolando Baltazar - were thrown out of the *pedicab*. Witnesses Cristobal Atienza and Louie Reyes claimed in their respective sworn statements that after hitting the *pedicab*, they saw the car stop, maneuver into reverse, and run over the hapless victims, before fleeing the crime scene. As a result, Erlinda Baltazar died while Rolando Baltazar suffered injuries and was brought to Good Shepherd Hospital in Pulilan, Bulacan.

In the course of the investigation of the incident, Police Officer 1 (PO1) Simplicio Santos of the Philippine National Police (PNP) of Pulilan, Bulacan, traced the ownership of the car which bumped the *pedicab* and discovered that the registered owner thereof was a certain Celso Bautista, who had already sold the said vehicle to private respondent Armando Bautista. PO1 Santos then went to private respondent's residence where he recovered the car stained with blood.

Consequently, petitioner Severino C. Baltazar, one of the children of the deceased Erlinda Baltazar and brother of the injured Rolando Baltazar, filed with the Municipal Trial Court (MTC) of Pulilan, Bulacan two separate criminal complaints against

private respondent, one for the Murder^[6] of Erlinda Baltazar and the other for Frustrated Murder for the injuries suffered by Rolando Baltazar.^[7] It is petitioner's complaint for the Murder of his mother, Erlinda Baltazar, which is the focus of the present controversy.

Hon. Horacio Viola, Jr., Presiding Judge of the MTC of Pulilan, Bulacan, conducted the requisite preliminary investigation, and upon its termination, issued his Resolution dated 23 July 2002^[8] recommending, *inter alia*, the dismissal of the Murder charge against private respondent in view of the admission of his nephew, Joel Santos, in a sworn statement,^[9] that he was the one driving the car when the deadly incident occurred.

The dispositive portion of the MTC Resolution reads:

Premises considered, it is respectfully recommended that the above cases for Murder and Frustrated Murder be dismissed and instead an Information for Reckless Imprudence Resulting to Homicide and Frustrated Homicide be filed against Joel Santos as he admitted to be the driver of the vehicle involved in the above case.^[10]

The records of the cases were eventually transmitted to the Provincial Prosecutor of Bulacan for appropriate action.

Upon receipt of the case records by the Provincial Prosecutor of Bulacan, petitioner prayed for and was granted by the said Office a reinvestigation. By a Resolution dated 23 September 2002,^[11] the Provincial Prosecutor of Bulacan^[12] reversed the findings of Judge Viola, Jr. and found probable cause to merit the indictment of private respondent for the murder of Erlinda Baltazar.^[13]

The Information dated 21 October 2002 filed against private respondent states that:

The undersigned 1st Asst. Provincial Prosecutor accuses Armando C. Bautista @ Arman of the crime of murder, penalized under the provisions of Art. 248 of the Revised Penal Code, committed as follows:

That on or about the 21st day of April, 2002, in the municipality of Pulilan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill one Erlinda Cruz-Baltazar, with evident premeditation, treachery and with the use of a Mitsubishi Sedan car with plate No. TNM-606, did then and there wilfully, unlawfully and feloniously run over the said Erlinda Cruz-Baltazar, thereby inflicting on her mortal injuries which directly caused her death.
^[14]

It was docketed as Criminal Case No. 3042-M-2002 and raffled to the sala of Hon. Judge Crisanto Concepcion, Presiding Judge of Branch 12 of the RTC of Malolos, Bulacan.^[15]

Acting on the said criminal case, Judge Concepcion issued an Order dated 14 November 2002 for the issuance of a warrant for the arrest of private respondent:

The existence of probable cause having been fully determined from a personal evaluation of the facts as alleged in the information and its supporting documents filed by the Office of the Provincial Prosecutor of Bulacan, justifying the arrest of accused, let the corresponding warrant be issued for that purpose, the same to be indorsed to the Chief Inspector, PNP, Plaridel, Bulacan, the Bulacan PNP Provincial Command, the Chief, PNP/CIDG, Malolos, Bulacan, and the Director, NBI, Pulilan, Bulacan, for service and implementation.^[16]

On 28 February 2003, private respondent filed a Motion for Reinvestigation before the RTC, Branch 12.^[17] The same was denied in the order of the RTC dated 7 March 2003.^[18]

On 23 May 2003, private respondent filed with the Department of Justice (DOJ) a Petition for Review of the Resolution dated 23 September 2002 of the Provincial Prosecutor of Bulacan finding probable cause that he committed the murder of Erlinda Baltazar.^[19]

About a year later, on 27 May 2004, on the strength of the warrant of arrest issued by the RTC, private respondent was apprehended and detained pending trial.^[20]

Private respondent was set to be arraigned on 15 June 2004. However, Judge Concepcion postponed the arraignment upon motion of private respondent who invoked the pendency of his Petition for Review with the DOJ.^[21] On 9 July 2004, private respondent's rescheduled arraignment again did not push through because he presented before the RTC a copy of the Resolution dated 8 July 2004, issued by Acting DOJ Secretary Ma. Merceditas N. Gutierrez, reversing the findings of the Provincial Prosecutor of Bulacan. The dispositive portion of the said DOJ Resolution reads^[22]:

All told, We are of the view and so hold that respondent could not be held criminally liable for murder or less serious physical injury as there was no malice or intent to cause injury (dolo) to the victims. Neither can he be held liable for reckless imprudence resulting to homicide or less serious physical injury as there was no sufficient proof of negligence (culpa). This is a case of accident, an exempting circumstance under paragraph 4 Article 12 of the Revised Penal Code. Thus, **Where the death of the deceased was due to an accident without any negligence on the part of the driver of the automobile, there being no sufficient proof on record to establish the latter's negligence, there is no criminal liability (United States vs. Tayongtong, 21 Phil. 476).**

WHEREFORE, the Resolution dated September 23, 2002 of the Provincial Prosecutor of Bulacan is hereby REVERSED and SET ASIDE. He is hereby directed to immediately cause the withdrawal of the information for murder and less serious physical injury filed against respondent Armando C. Bautista before the Regional Trial Court, Branch 12 of Malolos, Bulacan and to report the action taken thereon within ten (10) days from receipt hereof.^[23]

Pursuant to the afore-quoted DOJ Resolution, a Motion to Withdraw Information^[24] dated 28 July 2004 was filed by the Assistant Provincial Prosecutor with the RTC and was granted by Judge Concepcion in an Order issued on 30 July 2004^[25] based on the following ratiocination:

Acting on the Motion to Withdraw Information filed by 3rd Asst. Provincial Prosecutor Benjamin R. Caraig, the regular public prosecutor assigned to this Court, for the reason stated therein, there being no cogent reason to rule otherwise, considering further that the accused is a detention prisoner in this case, the same is hereby granted.

WHEREFORE, as prayed for by the prosecution, the information for murder filed against herein accused is hereby considered withdrawn from the docket of this Court.

Unless herein accused Armando c. Bautista @ Arman should be further detained for any valid cause or reason, the Provincial Jail Warden of Bulacan is hereby directed to effect the immediate release from his detention in this case.

Let copies of this order be furnished the prosecution, the accused, his counsel, and the Provincial Jail Warden of Bulacan.^[26]

A Motion for Reconsideration^[27] of the 30 July 2004 Order was filed by the private prosecutor, but Judge Concepcion denied the same in another Order dated 23 November 2004.^[28] The RTC Order reads:

[A]fter reading the statements of the witnesses given to the police soon after the tragic accident occurred in the evening of April 21, 2002, nothing was mentioned by the witnesses of the alleged intentional killing of the victim by running over her with the car of the accused. What they said to the police was what appeared to be a simple case of criminal negligence in driving the car by the accused when said vehicle bumped the pedicab occupied by the victims who were thrown out, resulting to the death of one of them, without the accused rendering any help or assistance to them, but fleeing from the scene of the accident - a case of hit and run accident. Then later on one of these witnesses executed an affidavit stating that the car, after bumping the pedicab of the victims, stopped and then moved backwards intentionally to run over one of the victims who was killed as a result thereof. Such declaration is suspect of a mere afterthought to create a much graver offense than a case of criminal negligence, the Court not hesitating to say that from the statement of the police investigator in his affidavit, he clearly appears not an impartial police investigator but one who has expressed his bad opinions of the accused instead of giving an impartial report on his findings as a police investigator. And the Court could not help but suspect that the police investigation was so made to create a capital offense against the accused, maybe because the brother of the victim who died in the accident was a police officer himself by the name of SPO3 Cruz. Another important factor in this case is the admission of one Joel Santos in his own affidavit to be the driver of the car when the accident

happened. Such admission under oath by Joel Santos should not have been ignored at all in finally resolving the case before filing it in Court. This probably is the reason why the Department of Justice directed the Office of the Provincial Prosecutor of Bulacan to immediately cause the withdrawal of the information for murder and less serious physical injury filed against accused Armando C. Bautista.^[29]

Petitioner thus filed a Petition for *Certiorari* before the Court of Appeals, docketed as CA-G.R. SP No. 88237, seeking the nullification and setting aside of Judge Concepcion's Order dated 30 July 2004 for having been rendered in grave abuse of discretion amounting to lack or excess of jurisdiction. In a Decision dated 26 April 2006, the appellate court found that:

In granting the motion to dismiss, respondent Judge did not rely solely on the resolution of the acting Secretary of Justice. The Order dated November 23, 2004 of respondent Judge granting the motion clearly demonstrates an independent evaluation or assessment of the evidence or the lack thereof against accused Bautista. In other words, the dismissal of the case was shown to be based upon the Judge's own individual conviction that there was no viable case against accused Bautista. For in the said Order, the respondent Judge stated his reasons for respecting the Secretary's recommendation. Hence, it can be deduced that he had studied and evaluated the Acting Secretary's recommendation as well as the sworn statements or evidence submitted finding the absence of probable cause to hold accused Bautista criminally liable for Murder.

Therefore, contrary to the claim of the petitioner, public respondent judge did not commit grave abuse of discretion when he granted the withdrawal of Information for Murder filed against the private respondent considering that he made an independent assessment of the merits of the motion and embodied the same in at least one of his assailed Orders as mandated by existing jurisprudence (*Ark Travel Express, Inc. vs. Abrogar*, 410 SCRA 148, 158[2003]).

Anent the allegation of the petitioner that he was denied due process, We also agree with the OSG that same is without factual basis. Thus:

"An examination of the machine copy of the motion to withdraw information filed by the Provincial Prosecutor which was marked as Annex 'D' clearly indicates that copy thereof was furnished to the parties concerned. Hence, the petitioner was notified [of the hearing] of said motion. In fact, the petitioner appeared in court on the date of hearing of said motion on July 30, 2004 and argued for the denial of the withdrawal of the information (Petitioner's Petition for *Certiorari*, pp. 4-5). Hence, when petitioner appeared in court and was able to contest/oppose said motion, he was afforded the opportunity to be heard on a motion derogatory to his interest."^[30]

Hence, the Court of Appeals denied the Petition in this wise: